

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE SOLONIA BAKER,) No. C 11-3493 LHK (PR)
Plaintiff,)
v.) ORDER DIRECTING
LEWIS, et al.,) PLAINTIFF TO PROVIDE
Defendants.) COURT WITH MORE
) INFORMATION FOR
) DEFENDANT D. HAMILTON
) AND DEFENDANT DUTRA

Plaintiff, a state prisoner proceeding *pro se*, filed a second amended civil rights complaint pursuant to 42 U.S.C. § 1983 challenging the conditions of his confinement at Pelican Bay State Prison (“PBSP”). On October 10, 2012, the Court issued an order of service. (Docket No. 40.) On October 17, 2012, notices of lawsuit and request for waiver of service of summons were mailed to Defendant D. Hamilton and Defendant Dutra. (Docket Nos. 41, 46.) The litigation office technician at PBSP returned the documents sent to these Defendants because he was “unable to identify these persons as ever working at Pelican Bay State Prison.” (Docket No. 58.) Defendant D. Hamilton and Defendant Dutra remain unserved.

Although a plaintiff who is incarcerated and proceeding *in forma pauperis* may rely on service by the Marshal, such plaintiff “may not remain silent and do nothing to effectuate such service”; rather, “[a]t a minimum, a plaintiff should request service upon the appropriate

1 defendant and attempt to remedy any apparent defects of which [he] has knowledge.” *Rochon v.*
2 *Dawson*, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, Plaintiff’s complaint has been pending for
3 over 120 days, and thus, absent a showing of “good cause,” is subject to dismissal without
4 prejudice. *See Fed. R. Civ. P. 4(m)*. Because Plaintiff has not provided sufficient information to
5 allow the Marshal to locate and serve Defendant D. Hamilton and Defendant Dutra, Plaintiff
6 must remedy the situation or face dismissal of his claims against Defendant D. Hamilton and
7 Defendant Dutra without prejudice. *See Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir.
8 1994) (holding prisoner failed to show cause why prison official should not be dismissed under
9 Rule 4(m) where prisoner failed to show he had provided Marshal with sufficient information to
10 effectuate service).

11 Plaintiff must provide the Court with more identification information for Defendant D.
12 Hamilton and Defendant Dutra such that the Marshal is able to effect service. **If Plaintiff fails**
13 **to provide the Court with more identification information for Defendant D. Hamilton and**
14 **Defendant Dutra within thirty (30) days of the date this order is filed, Plaintiff’s claim**
15 **against these Defendants will be dismissed without prejudice pursuant to Rule 4(m) of the**
16 **Federal Rules of Civil Procedure.**

17 IT IS SO ORDERED.

18 DATED: 4/19/13


LUCY H. KOH
United States District Judge